

APPEAL NO. 031674
FILED AUGUST 13, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 20, 2003. The hearing officer determined that appellant (claimant) sustained a compensable injury; that claimant had disability from August 30 through December 11, 2002; and that claimant did not elect to pursue a remedy and recover compensation of another jurisdiction, thereby barring recovery under the 1989 Act. Carrier appealed the compensability and disability determinations on sufficiency grounds and also appealed the election of remedies determination, contending that the hearing officer misapplied Section 406.035. Respondent (claimant) responded that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We affirm.

Carrier contends that the hearing officer erred in failing to reframe the issue in this case so that the issue was whether the Texas Workers' Compensation Commission (Commission) has jurisdiction in this case. Carrier acknowledges that the hearing officer made findings on the issue of jurisdiction. We perceive no reversible error.

Carrier contends the hearing officer erred in determining that the Commission has jurisdiction. In this case, the claimant signed a "Leased Employee Notice" that stated "for the purposes of workers' compensation insurance, [he is] a [State A] employee." Section 406.035 states that, "[e]xcept as provided by this subtitle, an agreement by an employee to waive the employee's right to compensation is void." We conclude that the hearing officer did not err in determining that the above-referenced portion of the agreement claimant signed is void pursuant to Section 406.035. See *generally* Texas Workers' Compensation Commission Appeal No. 001230, decided July 14, 2000. The hearing officer did not err in determining that claimant did not elect to pursue a remedy and recover compensation of another jurisdiction, thereby barring recovery under the 1989 Act.

We have reviewed the complained-of determinations regarding injury and disability and conclude that the issues regarding injury and disability involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. We conclude that the hearing officer's determinations are supported by the record and are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the hearing officer's decision and order.

According to information provided by carrier, the true corporate name of the insurance carrier is **UNITED STATES FIDELITY AND GUARANTY COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Thomas A. Knapp
Appeals Judge